

BOROUGH OF DEAL

PLANNING BOARD/BOARD OF ADJUSTMENT MINUTES

December 2, 2020

A regular virtual meeting of the Planning Board/Board of Adjustment of the Borough of Deal was called to order by Co-Chair Kathleen Jannarone.

Kathleen Jannarone asked everyone to salute the flag.

Michael Egan read the sunshine law, in conjunction with the "Open Public Meeting Law", p.l. 1975 C231, the notice required by this statute has been satisfied as per a resolution passed on December 5, 1997 at 8:00 P.M. at Borough Hall at a regular meeting of the Planning Board, Borough of Deal, Monmouth County, New Jersey. This meeting is a judicial proceeding. Any questions or comments must be limited to the issues of what this Board may legally consider in reaching a decision and decorum appropriate to a judicial hearing must be maintained at all times.

Roll Call of those present: Ruby Antebi, Joe Cohen, Mandy Cohen, Nicole Cohen, Sam Cohen, Kathleen Jannarone, Irwin Levine, Max Zeevi.

Those Absent: Richard Cummings, Richard Fetaya, David Simhon

A motion was made by Sam Cohen and seconded by Ruby Antebi that the minutes of the November 4, 2020 meeting be adopted.

Moved by: Sam Cohen

Seconded by: Ruby Antebi

Roll Call Vote:

Those in favor: Ruby Antebi, Nicole Cohen, Sam Cohen, Kathleen Jannarone, Max Zeevi

Those opposed: None

Those absent: Richard Cummings, Richard Fetaya, David Simhon

Those Not Voting: Joe Cohen, Mandy Cohen, Irwin Levine

Erik Anderson, Board Attorney makes an announcement that 9 Monmouth Terrace and 6 Roseld Court will not be heard tonight and are carried to the next meeting scheduled on January 6, 2021 with no further notice required.

The first item on the agenda is the adoption of the Resolution for 2 Pleasant Place, Block 3, Lot 1.01, Touvia Assis approved at the November 4, 2020 meeting.

RESOLUTION

Whereas, Touvia Assis, the record owner of the property has applied to the Planning Board of the Borough of Deal for variances at the premises located at 2 Pleasant Place, Borough of Deal and known as Block 3, Lot 1.01 on the official tax map of the Borough of Deal which premises is located in both the R-1 zone

The Applicant is proposing an in-ground swimming pool with paver edge.

The property has non-conformities with existing lot area, lot depth, front and rear yard setback to the dwelling, location of the basketball court and beach volleyball court in the front yard and minimum lot depth. The development of a non-conforming lot and variances require Planning Board approval.

Whereas, the Board after carefully considering the evidence presented by the Applicant, the Applicant's expert and the comments, if any, by the general public, has made the following factual findings:

1. The Applicant is the owner of the property.

2. The Applicant presented the testimony of David Boesch, a licensed engineer in the state of New Jersey.
3. The Applicant's case was presented by Jennifer Krimko, Esq.
4. The Applicant presented the following exhibits:

A-1 Plot Plan by David Boesch of Nelson Engineering dated 8/28/20, revised 9/16/20.

A-2 Survey by Robert Morris of Nelson Engineering dated 3/26/2000.

A-3 Google street view.

A-4 Attorney notice letter dated 10/22/20.

B-1 Engineer review letter by Leon S. Avakian, Inc. dated 10/27/20.

5. The property has a total area of 16,107 square feet.
6. The existing lot contains a single family dwelling, with an attached garage, paved basketball court and volleyball court.
7. The Applicant is proposing an in-ground swimming pool with a paver edge.
8. The minimum lot area permitted is 18,750 square feet. The existing lot area is 16,107 square feet, which represents an existing non-conformity.
9. The minimum front yard setback to the dwelling permitted is 50. The existing front yard setback is 17.9 feet, which represents an existing non-conformity. The Applicant proposes no change.
10. The minimum lot depth is 125 feet. The existing lot depth is 81.97 feet, which represents an existing non-conformity.
11. The minimum front yard setback is 50 feet. The existing front yard setback is 17.9 feet, which represents an existing non-conformity. The Applicant proposes no change.
12. The minimum rear yard setback is 16.4 feet (20% lot depth or 50 feet whichever is less). The existing rear yard setback is 14 feet, which represents an existing conformity. The Applicant proposes no change.
13. The minimum side yard setback to a pool is 30 feet. Applicant initially proposed 17.6 feet. During the hearing, the Applicant agreed to reduce the width of the pool by 4 feet and move the pool 2 feet closer to the home. The Applicant now proposes 23.6 feet. **A variance is required.**

14. The minimum rear yard setback to a pool is 30 feet. Applicant proposes 19.9 feet. **A variance is required.**

15. Applicant proposes a 3 foot paver edge only.

16. The placement of the pool in the proposed location is the least obtrusive and will have the least impact on the adjacent neighbor and public right of way.

17. Due to the unique shape of the property, Applicant would face a hardship to fit a conforming pool on the property.

18. The pool will be shielded from the street by landscaping.

19. The Applicant agrees to install landscaping to shield the existing basketball and volleyball courts from view from the street.

Whereas, the Board has determined that the relief requested by the applicant can be granted as presented without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan of the Borough of Deal.

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 4th day of November 2020 that the application is approved subject to the following conditions:

- (1). The Applicant shall comply with all promises, commitments and representations made at or during the Public Hearing Process.

(2). The Applicant shall comply will those applicable terms and conditions of the Leon S. Avakian review letters dated October 27, 2020.

(3). A general note should be added to the plan indicating the existing curb and sidewalk along the frontage will be replaced if found in poor condition.

(4). The Applicant shall be strictly limited to the plans which are referenced herein and which are incorporated herein at length. All construction shall comply with prevailing provisions of the Uniform Construction Code.

(5). The Applicant shall obtain all approvals necessary for this project.

(6). The Applicant shall in conjunction with appropriate Borough Ordinances pay all appropriate/required fees and taxes.

(7). Any future improvements will require Planning Board Approval.

(8). The Applicant will not direct stormwater and/or runoff from the property onto adjacent properties.

(9). All landscaping plans shall be subject to review and approval by the Borough's Engineer.

Moved by: David Simhon

Seconded by: Kathleen Jannarone

ROLL CALL VOTE

Those in favor: Nicole Cohen, Sam Cohen, Cummings, Jannarone, Simhon

Those opposed: Antebi, Zeevi

Those absent: Joe Cohen, Mandy Cohen, Fetaya, Levine

Those not voting: None

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Deal on the 2nd day of December 2020 that the Resolution be adopted.

Moved by: Sam Cohen

Seconded by: Nicole Cohen

ROLL CALL VOTE

Those in favor: Nicole Cohen, Sam Cohen, Kathleen Jannarone

Those opposed: None

Those absent: Cummings, Fetaya, Simhon

Those not voting: Joe Cohen, Mandy Cohen, Ruby Antebi, Max Zeevi

For the record, Ruby Antebi and Max Zeevi step down prior to the next application due to conflicts and David Simhon has joined the Board.

The next item on the agenda is 94 Roosevelt Avenue, Block 12, Lot 1.01, Lee and Lisa Cohen. Applicant is proposing a Porte-Cochere on the West side of the dwelling with a new concrete driveway. Attorney for the applicant, Jennifer Krimko.

Enter into evidence:

A-1 As-Built Survey by Charles Surmonte, P.E. dated 8/5/2019.

A-2 Site Plan by James. P. Gilday of Moss Gilday Group dated 12/20/2018 with a revised date of 7/13/2020.

A-3 Architectural Plan by Alan J. Zimbler of Zimbler Architecture dated 9/4/2020.

A-4 Color Rendering street view of Porte-Cochere

A-5 Two Google aerial photos of subject property and neighbors.

B-1 Engineer review letter by Leon S. Avakian, Inc. dated October 27, 2020.

Jennifer Krimko, looking at A-5, there is a very mature tree line along the property buffering it. The second photo shows that the only neighbor impacted is virtually invisible. Looking at A-4 shows what the Porte-Cochere will look like. You allow pool houses to be 10 feet from the property and that is a full building and all this is just a covered area to pull a car under completely open but more importantly at the apex at the top where the roof is it's about 16 feet high and at that spot it is set back more than 17 feet. So the setback at the highest point is greater than the height.

Joe Cohen, is that specific to the west side?

Jennifer Krimko, yes, so we are only taking about the Porte-Cochere. So you can see here on the drawing, the property is fully developed.

Sam Cohen, I have no problem with that.

Kathleen Jannarone, I would like to suggest that in the resolution that this Porte-Cochere can never be enclosed.

Jennifer Krimko, 100 percent. I should have volunteered that.

David Simhon, the Porte-Cochere can not be seen from the neighbors property.

Jennifer Krimko, No.

Kathleen Jannarone, any questions or comments from the public. None.

Sam Cohen makes a motion to accept the application subject to the condition that it will never be enclosed. David Simhon seconds the motion.

Moved by: Sam Cohen

Seconded by: David Simhon

ROLL CALL VOTE

Those in favor: Joe Cohen, Mandy Cohen, Nicole Cohen, Sam Cohen, Kathleen Jannarone, Irwin Levine, David Simhon

Those opposed: None

Those absent: Richard Cummings, Richard Fetaya,

Those not voting: Ruby Antebi, Max Zeevi

For the record: Ruby Antebi and Max Zeevi re-join the board.

The next application is 45 Hathaway Avenue, Block 68, Lot 15, Eli Sasson. Applicant is proposing an in-ground pool with a patio. Attorney for the applicant, Jessica Sweet.

Enter into evidence:

A-1 Plot Plan by Nelson Engineering, David Boesch, L.L.A., dated 8/13/2020 with a revision date of 10/7/2020.

A-2 Survey by Nelson Engineering, Robert H. Morris, P.L.S. dated 7/10/2020.

A-3 Google street view of property.

A-4 Two google aerial photos of subject property and neighbors/

B-1 Engineer review letter by Leon S. Avakian, Inc. dated November 23, 2020.

Jessica Sweet, we are proposing a pool in the backyard. I call Matthew DuBois, engineer from Nelson Engineering.

Matthew DuBois sworn in by Board Attorney.

Matthew DuBois, licensed engineer for 10 years and has appeared before Board prior. Board accepts.

Jessica Sweet, would you describe the site and the surrounding area. We are in the R-2 zone.

Matthew DuBois, the lot is undersized, the requirement is 18,750 square feet and we have 15,000 square feet. The variances are side yard setback is 15 feet where 30 feet is required. The rear yard setback is 10 feet where 30 feet is required.

Jessica Sweet, the pool will be surrounded by a four foot fence.

Matthew DuBois, the maximum coverage for the swimming pool is 35% and we are asking for 42.15%.

Jessica Sweet, putting the pool in the Northeast Corner near the neighbors to the west who have a large open yard. Would there any negative impact the neighboring properties?

Matthew DuBois, I don't think so.

Jessica Sweet, we can comply with the Engineer comments.

Kathleen Jannarone, the maximum coverage for the pool and patio is larger than permitted and that is not too big of an issue but the major issue is the setback of side yard and rear yard. There is no real hardship here. That pool can either be reduced in size or moved to eliminate some of the variances and the coverage variance.

David Simhon, we have had applications where they have moved the pool closer to the house and you could put the patio area further into the rear yard.

Joe Cohen, just a small observation. Move the pool to the west and make it a little smaller and closer to the house you could avoid issues.

David Simhon, especially for a property 100 foot wide.

Joe Cohen, if you made the pool a little smaller, you could eliminate some variances.

Jessica Sweet, based on these comments, I think it would be a wise course of action to go back to the drawing board and see what we can do address the concerns.

Joe Cohen, if you look at the plan re-arranging the pool and some minor adjustments to get some relief.

Jessica Sweet, we ask to carry the application for revisions to the plan to the next meeting.

Erik Anderson, we will carry for no further need to notice and the applicant will enlarge the time for the Board to act.

Jessica Sweet, Yes. When is the next meeting?

Michael Egan, it is January 6, 2021, which is also our reorganizational meeting.

There being no further business, the meeting was adjourned.

Respectfully submitted.

Michael W. Egan
Planning Board Secretary